



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**[MB Docket No. 18-139; FCC 18-56]**

**Family Voice Communications, LLC, Application for Renewal of License of FM Radio Station KLSX(FM), Rozet, WY**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document commences a hearing to determine whether the application filed by Family Voice Communications, LLC to renew its license for radio station KLSX(FM), Rozet, Wyoming, should be granted. The application has been designated for hearing based on the station's extended periods of silence since its first day of claimed operation on November 8, 2010.

**DATES:** Persons desiring to participate as parties in the hearing shall file a petition for leave to intervene not later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER]**.

**ADDRESSES:** File documents with the Office of the Secretary, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Washington, DC 20554, with a copy mailed to each party to the proceeding. Each document that is filed in this proceeding must display on the front page the docket number of this hearing, "MB Docket No. 18-139."

**FOR FURTHER INFORMATION CONTACT:** Albert Shuldiner, Media Bureau, (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Hearing Designation Order (Order), MB Docket No. 18-139, FCC 18-56, adopted May 4, 2018, and released May 7, 2018.

The full text of the Order is available for inspection and copying during normal business hours in

the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW, Washington, DC 20554. The full text is also available online at <http://apps.fcc.gov/ecfs/>.

### **Summary of the Hearing Designation Order**

1. The Order commences a hearing proceeding before the Commission to determine whether the application filed by Family Voice Communications, LLC (FVC) to renew the license for radio station KLSX(FM), Rozet, Wyoming (KLSX Renewal Application) should be granted pursuant to section 309(k)(1) of the Communications Act of 1934 (Act), 47 U.S.C. 309(k)(1). The KLSX Renewal Application is designated for hearing based on the station's record of extended periods of silence during and following its license term.

2. A broadcast licensee's authorization to use radio spectrum in the public interest carries with it the obligation that the station serve its community, providing programming responsive to local needs and interests. Broadcast licensees also are required to operate in compliance with the Act and the Commission's rules (Rules). These requirements include the obligation to transmit potentially lifesaving national level Emergency Alert System (EAS) messages in times of emergency and to engage in periodic tests to ensure that their stations are equipped to do so.

3. The basic duty of broadcast licensees to serve their communities is reflected in the license renewal provisions of the Act. In 1996, Congress revised the Commission's license renewal process and the renewal standards for broadcast stations by adopting section 309(k) of the Act, 47 U.S.C. 309(k). Section 309(k)(1) of the Act, 47 U.S.C. 309(k)(1), provides that the Commission shall grant a license renewal application if it finds, with respect to the applying station, that during the preceding license term: (a) the station has served the public interest, convenience, and necessity; (b) there have been no serious violations by the licensee of the Act or the Rules; and (c) there have been no other violations by the licensee of the Act or the Rules which, taken together, would constitute a pattern of abuse. Section 309(k)(2) of the Act, 47

U.S.C. 309(k)(2), provides that if a station fails to meet the foregoing standard, the Commission may deny the renewal application pursuant to Section 309(k)(3), 47 U.S.C. 309(k)(3), or grant the application on appropriate terms and conditions, including a short-term renewal. Section 309(k)(3) of the Act, 47 U.S.C. 309(k)(3), provides that if the Commission determines, after notice and opportunity for hearing, that the licensee has failed to meet the standard of section 309(k)(1), 47 U.S.C. 309(k)(1), and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall issue an order denying the license renewal application for the station.

4. KLSX(FM) (Station) was licensed as a commercial Class C3 FM station serving Rozet, Wyoming on November 8, 2010. However, the Station went silent after only one day of claimed operation. Filings submitted by FVC allege the following operational history by the Station since November 8, 2010: (a) silent for 1037 days and operational for 23 days during the remaining license term from November 9, 2010 to October 1, 2013; and (b) silent for 1306 days and operating for 373 days from October 2, 2013 to the date of release of the Order on May 7, 2018.

10. Section 309(k)(3) of the Act, 47 U.S.C. 309(k)(3), requires “notice and opportunity for a hearing as provided in subsection (e).” Section 309(e), 47 U.S.C. 309(e), requires a “full hearing in which the applicant and all other parties in interest shall be permitted to participate.” The Commission and courts have held that the hearing need not be a trial-type evidentiary hearing meeting the standards of sections 554 and 556 of the Administrative Procedure Act, 5 U.S.C. 554, 556. The Commission has repeatedly observed that trial-type hearings impose significant burdens and delays, both on applicants and the agency. We have found no substantial issues of material fact or any credibility issues regarding these renewal applications. We thus believe cases such as this one can be appropriately resolved with a “paper” hearing.

11. We have identified no substantial and material questions of fact with respect to the KLSX Renewal Application, which presents only a narrow range of issues for Commission consideration. Thus, many Subpart B rules are facially irrelevant to this proceeding. In these circumstances, we find that the use of summary procedures would expedite the resolution of this hearing while affording FVC the full hearing required by section 309, 47 U.S.C. 309, and not placing unnecessary burdens on the licensee. Accordingly, we find that the following rules are either inapplicable to or would serve no useful purpose in this proceeding: 47 CFR 1.221(c) – (h); 1.241 – 1.253; 1.255 – 1.279; 1.282(a) and (b)(2); 1.297 – 1.340; and 1.352 – 1.364.

12. Anyone seeking status as a party in interest in this proceeding must file a petition to intervene in accordance with 47 CFR 1.223(a). Anyone else seeking to participate in the hearing as a party may file a petition for leave to intervene in accordance with 47 CFR 1.223(b). Any filing in this docket must be served in accordance with 47 CFR 1.211 on all other parties, including each person or entity that has filed a petition to intervene or petition for leave to intervene, pending a ruling on each such petition.

13. FVC shall have the right to seek reconsideration of any interlocutory action in this proceeding. Accordingly, we waive the 47 CFR 1.106(a) restriction limiting the filing of a petition for reconsideration by FVC of this hearing designation order.

14. FVC shall file in this docket, within 30 days of publication of notice of the Order in the Federal Register, complete copies of the following records for the Station (as such records exist as of the release date of the Order): (a) all station logs for the relevant license term; (b) all quarterly issues and programs lists for the relevant license term; and (c) to the extent not included in the station logs, all EAS participant records for the relevant license term. FVC may not destroy or remove any of such records prior to such filing, or redact or modify any information in such records as they exist as of the release date of the Order. In the event that,

on or after the release date of the Order, FVC creates or modifies any documents that it so provides, each such document should be prominently marked with the date that it was created or revised (identifying the revision(s)) and FVC should include in the sponsoring affidavit or declaration an explanation of who created or revised the document and when he or she did so. We otherwise will conduct the hearing without discovery, although the Commission or its staff may make inquiries or conduct investigations pursuant to Part 73 of the Rules and any reports filed in this docket as a result of such inquiries or investigations will become part of the record in this hearing.

15. We will take official notice of all publicly-available Commission records for the Station as part of the record in this docket. FVC has the burden of proceeding with evidence and the burden of proof in this hearing. Within 60 days of publication of notice of the Order in the **Federal Register**, FVC will file a written direct case on the designated issues, no longer than 25 pages, and supported by an affidavit or unsworn declaration pursuant to 47 CFR 1.16. Within 30 days of FVC's filing, any other person granted party status may file a responsive submission, no longer than 25 pages and supported by an affidavit or unsworn declaration. Within 10 days of the deadline for filing such responses, FVC may file a rebuttal submission addressing all responses, no longer than 10 pages and supported by an affidavit or unsworn declaration.

16. *Accordingly, it is ordered*, pursuant to sections 309(e) and (k)(3) and 312(g) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), 309(k)(3) and 312(g), the captioned application for renewal of license for Station KLSX(FM) *is designated for a hearing* upon the following issues: (a) To determine whether, during the preceding license term, (i) the station has served the public interest, convenience, and necessity, (ii) there have been any serious violations by the licensee of the Communications Act of 1934, as amended, or the rules

and regulations of the Commission, and (iii) there have been any other violations of the Communications Act of 1934, as amended, or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse; (b) In light of the evidence adduced pursuant to issue (a) above, whether the captioned application for renewal of the license for Station KLSX(FM) should be granted on such terms and conditions as are appropriate, including renewal for a term less than the maximum otherwise permitted, or denied due to failure to satisfy the requirements of section 309(k)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 309(k)(1).

17. *It is further ordered*, pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), and section 1.254 of the Commission's rules, 47 CFR 1.254, that the burden of proceeding with the introduction of evidence and the burden of proof with respect to the issues specified in Paragraph 18 of the Order shall be on the applicant, Family Voice Communications, LLC.

18. *It is further ordered* that Family Voice Communications, LLC *is made a party* to this proceeding.

19. *It is further ordered* that, to avail itself of the opportunity to be heard and the right to present evidence at a hearing in these proceedings, Family Voice Communications, LLC shall file complete and correct copies of the documents described in Paragraph 16 of the Order, on or before the date specified. If Family Voice Communications, LLC fails to file such documents for KLSX(FM) within the time specified, or a petition to accept, for good cause shown, such filing beyond the expiration of such period, its captioned license renewal application for the station shall be dismissed with prejudice for failure to prosecute and the license of the station shall be terminated.

20. *It is further ordered* that Family Voice Communications, LLC shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. 311(a)(2), and 47 CFR 73.3594, give notice of the hearing within the time and in the manner prescribed therein, and thereafter submit the statement described in 47 CFR 73.3594(g).

21. *It is further ordered* that a copy of this Order shall be sent by Certified Mail, Return Receipt Requested, and by regular first-class mail to Family Voice Communications, LLC, 9004 South 8<sup>th</sup> Drive, Phoenix, AZ 85041, with a copy to its counsel of record, Lee J. Peltzman, Esq., Shainis & Peltzman Chartered, 1850 M Street, N.W., Suite 240, Washington DC 20036.

22. *It is further ordered* that the Secretary of the Commission shall cause to have this Order or a summary thereof published in the Federal Register.

Federal Communications Commission.

**Katura Jackson,**

Federal Register Liaison Officer,

Office of the Secretary.

[FR Doc. 2018-12835 Filed: 6/14/2018 8:45 am; Publication Date: 6/15/2018]